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EXAMINER

CANTELMO, GREGG

ART UNIT	PAPER NUMBER
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1745

MAIL DATE	DELIVERY MODE
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06/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/075,183	Applicant(s) WANI ET AL.	
	Examiner Gregg Cantelmo	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/4/07 & 4/26/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12-24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 26, 2007 has been entered.

Response to Amendment

2. In response to the amendment received April 24, 2007, entered as per the RCE filed April 26, 2007:

- a. Claims 1-9, 12-24 and 26-28 are pending;
- b. The prior art rejections of record have been withdrawn in light of the amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over [U.S. Patent No. 4,509,656 (Rosler '656) in view of Nicholson, of record.

Rosler '656 discloses a storage case including a main body 2 having a first opening portion at one end and a bottom surface 4 at the other end, and a lid portion 1 having a second opening at one end and a head portion at the other end, the case comprising: projection trains 6 along the main body 2 which include a portion of trains near the bottom side 4 of the body and mating projection trains 5 formed in the lid portion near the bottom opening of the lid portion wherein the trains 5 and 6 are adapted to engage one another and wherein the outer surface of the main body 2 deforms inwardly and the inner surface of the lid 1 deforms outwardly during insertion and extraction of the main body into or out of the lid portion in a lengthwise direction and

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wherein the insertion/extraction is performed without rotation of the main body 2 relative to the lid portion 1 (Figs. 1 and 5 as applied to claim 16).

The main body 2 includes a plurality of projections trains which therein include first and third projection trains as recited in claim 20 and the first and third projection trains 6 are adapted to engage the projection train 5 on the lid (Figs. 1 and 5 as applied to claim 20).

Rosler '656 does not teach of the main body storing a battery (claim 16).

Since the structure of the case of Rosler '656 has a telescoping arrangement wherein the cover can be held at various positions along the length of the body dependent upon which projection train the cover meshes with, the prior art is clearly capable of storing multiple components within the casing.

While Rosler '656 does not teach of storing batteries in the container it would have been obvious to do so.

Nicholson discloses providing a casing 10 wherein the objects stored in the casing are batteries.

Selection of the particular object for storing is a matter of intended use for the container of Rosler '656 and one of ordinary skill in the art would have found it obvious to configure the size of the container of Rosler '656 to fit any number of objects including batteries. The storage of batteries in a cylindrical accessory casing being known in the art as shown by Nicholson.

4. Claims 1-7, 22, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson, of record in view of Rosler '656 and Redlinger, of record.

Nicholson discloses of a cylindrical battery case 10 having a body portion 12 and a lid portion 20 wherein the body and lid securely mate (Figs. 1, 4 and 8 as applied to claim 1).

The case further comprises a through hole bored through the body (Fig. 1).

The body and lid are circular in cross-section (Fig. 8 as applied to claims 2 and 3).

The bottom of the main body 12 is slightly curved outward from the end of the sidewalls of the container to the bottom (see Fig. 4 as applied to claim 4).

Nicholson does not teach of the projection train mating features of claims 1, 6 and 22; of the head portion of claim 5 and the through-hole opening of claim 7; of the through-hole being formed through the head portion of the lid (claim 1) or of the main body having a narrower cross-section so as to facilitate insertion of the main body into the lid (claim 28).

As to the projection train mating features:

Rosler '656 discloses a storage case including a main body 2 having a first opening portion at one end and a bottom surface 4 at the other end, and a lid portion 1 having a second opening at one end and a head portion at the other end, the case comprising: projection trains 6 along the main body 2 which include a portion of trains near the bottom side 4 of the body and mating projection trains 5 formed in the lid portion near the bottom opening of the lid portion wherein the trains 5 and 6 are adapted to engage one another and wherein the outer surface of the main body 2 deforms inwardly and the inner surface of the lid 1 deforms outwardly during insertion and

extraction of the main body into or out of the lid portion in a lengthwise direction and wherein the insertion/extraction is performed without rotation of the main body 2 relative to the lid portion 1 (Figs. 1 and 5 as applied to claim 1).

Projection portion of trains at the bottom of the body are "substantially the same diameter" as the opening of the lid. The term substantially renders a degree of latitude to the diameters being exactly the same and thus can be slightly larger or smaller so long as they are about the same diameter and permit the same insertion of the body into the lid (as applied to claim 6). The main body 2 includes a plurality of projection trains which therein include first and third projection trains as recited in claim 22 and the first and third projection trains 6 are adapted to engage the projection train 5 on the lid (Figs. 1 and 5 as applied to claim 22). The body comprises a plurality of projection trains and can be grouped in any number of ways. Thus the plurality of projection trains can be applicable to either the first or second trains of claim 1 or to both trains since there are ample trains shown in Rosler '656 to define plural trains in plural groups (as applied to claims 26 and 27).

The motivation for using the projection train arrangement of Rosler is that it provides a storage arrangement which has an improve range of storage for various length objects therein as well as varying number of objects therein (col. 2, ll. 1-15) while providing a locking arrangement between the body and lid.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by replacing the screw-cap mating feature with the projection train mating feature of Rosler '656 since it

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would have provided an alternative means for securing the body and lid together while also providing an arrangement which would permit a greater adjustability of the length of the package in relation to the size and number of objects needed to be stored in the package.

As to the through hole recitation of claim 1 and the head and space portion of claims 5 and 7:

Nicholson did recognize that a through hole is a desired addition to the container to permit connecting of the container to other objects. While the through hole of Nicholson is on the body and not the lid, providing the through hole on the lid would have been an obvious rearrangement of parts and/or a preferred design choice with such arrangements having been known in the container storage art as shown by Redlinger. Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by providing a through hole in the head portion of the lid since it would have been an obvious

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rearrangement of parts and/or a preferred design choice with such arrangements having been known in the container storage art as shown by Redlinger.

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for configuring the lid to have the through hole placed and configured as defined in claims 5 and 7 permits attachment of the container to a key ring whereat additional elements can also be attached to the ring.

It would have further been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by configuring the lid to have the through hole since it would have permitted attachment of the container to a key ring whereat additional elements could also be attached to the ring.

With respect to the narrower cross-section of claim 28:

Redlinger teaches of the casing wherein the body has an open end with the cross-section of the open end being narrower than the remainder of the body (see Fig. 1 of Redlinger).

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by providing a narrower cross-section to the open end of the body is to enhance the ease of insertion of the body into the lid.

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5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson in view of Rosler '656 and Redlinger as applied to claim 1 above, and further in view of U.S. Patent No. Des. 409,560 (Shim) or U.S. Patent No. 3,881,601 (Walus).

The difference between claim 21 and Nicholson is that Nicholson does not teach of the casing having a cross-sectional shape as a pair of glasses.

Nicholson teaches of storing batteries in the container 10 as discussed above and in the teachings of Nicholson.

It is further known in the battery art to place 2 electrical cell in a side-by-side arrangement as show in Fig. 1 of Shim. Walus alternatively teaches of battery display packages wherein the batteries are placed in a side-by-side relation thereby creating a package having a cross-section in the shape of a pair of glasses.

The particular shape of the casing is held to be a matter of design choice and further obvious in light of Shim or Walus for the purposes of placing two cells in a side-by-side relationship in a single battery casing.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by configuring the casing to have a cross-sectional shape as a pair of glasses since it would have provided a side-by-side arrangement of the batteries in a single battery casing.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson in view of Rosler '656 and Redlinger as applied to claim 1 above, and further in view of U.S. patent No. 5,829,591 (Lyons).

The difference not discussed is providing a stopper between the 1st and 2nd projection trains.

The concept of providing a stopper to the body of the casing is known in the art for the purposes of preventing the cover from covering the entire body. If the cover were able to cover the entire body, it would render it difficult to remove the body from the covering. Therefore a stopper means somewhere near or at the bottom of the body (the body end furthest from the cover receiving end of the body) would have provided such an arrangement (See Fig. 1 of Lyons).

While Lyons does not teach of providing the stopper between the 1st and 2nd projection trains, the placement of such is held to be a matter of design choice and that one of ordinary skill in the art would have found it obvious to place the stopper at somewhere near or at the bottom of the body (the body end furthest from the cover receiving end of the body) to prevent the body from being completely inserted into the cover.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the body of Nicholson to include a stopper as somewhere near or at the bottom of the body (the body end furthest from the cover receiving end of the body) suggested by Lyons since it would have prevented the body from being completely inserted into the cover. Furthermore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the body to have the stopper disposed near the end of the body and between the first

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and last trains on the body since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

7. Claims 8, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson, of record in view of Rosler '656 and either Shim or Walus, of record.

Nicholson discloses of a cylindrical battery case 10 having a body portion 12 and a lid portion 20 wherein the body and lid securely mate (Figs. 1, 4 and 8 as applied to claim 8).

The case further comprises a through hole bored through the body (Fig. 1).

The bottom of the main body 12 is slightly curved outward from the end of the sidewalls of the container to the bottom (see Fig. 4 as applied to claim 12).

Nicholson does not teach of the projection train mating features of claim 8 or of the main body having a narrower cross-section so as to facilitate insertion of the main body into the lid (claim 14).

As to the projection train mating features:

Rosler '656 discloses a storage case including a main body 2 having a first opening portion at one end and a bottom surface 4 at the other end, and a lid portion 1 having a second opening at one end and a head portion at the other end, the case comprising: projection trains 6 along the main body 2 which include a portion of trains near the bottom side 4 of the body and mating projection trains 5 formed in the lid portion near the bottom opening of the lid portion wherein the trains 5 and 6 are adapted to engage one another and wherein the outer surface of the main body 2 deforms inwardly and the inner surface of the lid 1 deforms outwardly during insertion and

extraction of the main body into or out of the lid portion in a lengthwise direction and wherein the insertion/extraction is performed without rotation of the main body 2 relative to the lid portion 1 (Figs. 1 and 5 as applied to claim 8).

Projection portion of trains at the bottom of the body are "substantially the same diameter" as the opening of the lid. The term substantially renders a degree of latitude to the diameters being exactly the same and thus can be slightly larger or smaller so long as they are about the same diameter and permit the same insertion of the body into the lid (as applied to claim 14). The main body 2 includes a plurality of projections trains which therein include first and third projection trains as recited in claim 22 and the first and third projection trains 6 are adapted to engage the projection train 5 on the lid (Figs. 1 and 5 as applied to claim 8).

The motivation for using the projection train arrangement of Rosler is that it provides a storage arrangement which has an improve range of storage for various length objects therein as well as varying number of objects therein (col. 2, ll. 1-15) while providing a locking arrangement between the body and lid.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by replacing the screw-cap mating feature with the projection train mating feature of Rosler '656 since it would have provided an alternative means for securing the body and lid together while also providing an arrangement which would permit a greater adjustability of the length of the package in relation to the size and number of objects needed to be stored in the package.

As to the shape of the main body having a cross-section shaped as a pair of glasses:

It is further known in the battery art to place 2 electrical cell in a side-by-side arrangement as show in Fig. 1 of Shim. Walus alternatively teaches of battery display packages wherein the batteries are placed in a side-by-side relation thereby creating a package having a cross-section in the shape of a pair of glasses.

The particular shape of the casing is held to be a matter of design choice and further obvious in light of Shim or Walus for the purposes of placing two cells in a side-by-side relationship in a single battery casing.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by configuring the casing to have a cross-sectional shape as a pair of glasses since it would have provided

8. Claims 9, 13 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson in view of Rosler '656 and either Shim or Walus as applied to claim 8 above, and further in view of Redlinger.

Nicholson does not teach of the through-hole of claims 9 and 15 or of the head portion of claim 13.

Nicholson did recognize that a through hole is a desired addition to the container to permit connecting of the container to other objects. While the through hole of Nicholson is on the body and not the lid, providing the through hole on the lid would have been an obvious rearrangement of parts and/or a preferred design choice with such arrangements having been known in the container storage art as shown by Redlinger. Redlinger shows a lid having a through hole in the head portion of the lid

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wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by providing a through hole in the head portion of the lid since it would have been an obvious rearrangement of parts and/or a preferred design choice with such arrangements having been known in the container storage art as shown by Redlinger.

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for configuring the lid to have the through hole placed and configured as claimed permits attachment of the container to a key ring whereat additional elements can also be attached to the ring.

It would have further been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by configuring the lid to have the through hole since it would have permitted attachment of the container to a key ring whereat additional elements could also be attached to the ring.

9. Claims 16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson, of record in view of Rosler '656.

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Nicholson discloses of a cylindrical battery case 10 having a body portion 12 and a lid portion 20 wherein the body and lid securely mate (Figs. 1, 4 and 8 as applied to claim 16).

The case further comprises a through hole bored through the body (Fig. 1).

The body and lid are circular in cross-section (Fig. 8 as applied to claims 18 and 19).

Nicholson does not teach of the projection train mating features of claims 16 and 20.

Rosler '656 discloses a storage case including a main body 2 having a first opening portion at one end and a bottom surface 4 at the other end, and a lid portion 1 having a second opening at one end and a head portion at the other end, the case comprising: projection trains 6 along the main body 2 which include a portion of trains near the bottom side 4 of the body and mating projection trains 5 formed in the lid portion near the bottom opening of the lid portion wherein the trains 5 and 6 are adapted to engage one another and wherein the outer surface of the main body 2 deforms inwardly and the inner surface of the lid 1 deforms outwardly during insertion and extraction of the main body into or out of the lid portion in a lengthwise direction and wherein the insertion/extraction is performed without rotation of the main body 2 relative to the lid portion 1 (Figs. 1 and 5 as applied to claim 16).

The main body 2 includes a plurality of projections trains which therein include first and third projection trains as recited in claim 20 and the first and third projection

trains 6 are adapted to engage the projection train 5 on the lid (Figs. 1 and 5 as applied to claim 20).

The motivation for using the projection train arrangement of Rosler is that it provides a storage arrangement which has an improve range of storage for various length objects therein as well as varying number of objects therein (col. 2, ll. 1-15) while providing a locking arrangement between the body and lid.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by replacing the screw-cap mating feature with the projection train mating feature of Rosler '656 since it would have provided an alternative means for securing the body and lid together while also providing an arrangement which would permit a greater adjustability of the length of the package in relation to the size and number of objects needed to be stored in the package.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson in view of Rosler '656 as applied to claim 16 above, and further in view of U.S. Design Patent No. D 433,562 (Redlinger).

The difference between claim 17 and Nicholson is that Nicholson does not teach of providing a through-hole in the head portion of the lid (claim 17).

Nicholson did recognize that a through hole is a desired addition to the container to permit connecting of the container to other objects. While the through hole of Nicholson is on the body and not the lid, providing the through hole on the lid would have been an obvious rearrangement of parts and/or a preferred design choice with

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such arrangements having been known in the container storage art as shown by Redlinger. Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Nicholson by providing a through hole in the head portion of the lid since it would have been an obvious rearrangement of parts and/or a preferred design choice with such arrangements having been known in the container storage art as shown by Redlinger.

Response to Arguments

11. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregg Cantelmo whose telephone number is 571-272-1283. The examiner can normally be reached on Monday to Thursday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gc
May 31, 2007



Gregg Cantelmo
Primary Examiner
Art Unit 1745